

The AfCFTA Objectives and the furthering of the interests of Women

Gerhard Erasmus

What must the AfCFTA deliver and how? A basic answer to this question can be found in Article 3 (*General Objectives*) and Article 4 (*Specific Objectives*) of the AfCFTA Agreement. These two provisions distinguish between long-term objectives and immediate obligations.

The *General Objectives* are about the creation of a liberalised African market for goods and services through successive rounds of negotiations; to contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs; to lay the foundation for the establishment of a Continental Customs Union at a later stage; to promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties; to enhance the competitiveness of the economies of State Parties within the continent and the global market; to promote industrial development through diversification and regional value chain development, agricultural development and food security; and to resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.

The implementation of these long-term objectives will require follow-up action by the State Parties; when they are ready to deepen integration among themselves. There is no pre-determined schedule to be followed. Consensus-based decisions need to be adopted in order to implement Article 3 of the AfCFTA Agreement.

The *Specific Objectives* and immediate tasks of the AfCFTA State Parties involve the obligations to¹:

¹ Art 4 AfCFTA Agreement.

- (a) progressively eliminate tariffs and non-tariff barriers to trade in goods*
- (b) progressively liberalise trade in services*
- (c) cooperate on investment, intellectual property rights and competition policy*
- (d) cooperate on all trade-related areas*
- (e) cooperate on customs matters and the implementation of trade facilitation measures*
- (f) establish a mechanism for the settlement of disputes concerning their rights and obligations and*
- (g) establish and maintain an institutional framework for the implementation and administration of the AfCFTA.*

The AfCFTA's Specific Objectives as formulated in the text of the AfCFTA Agreement deal with the Phase I Protocols on trade in goods and services and the related Annexes. The AfCFTA Protocol on Women and the Youth will be adopted during the Phase III negotiations, together with the Protocol on Digital Trade. Phase II Protocols on Investment, Competition and Intellectual Property Rights are expected to be adopted in early 2023 too. These subsequent AfCFTA instruments will be very important in terms of the promotion of the rights and interests of women, the obligations to be implemented by the State Parties, and the cross-border procedures for accommodating women traders.

At the beginning of 2023, these matters are still being negotiated. There is still time for stakeholders to make their inputs in this process. They should also monitor the domestic procedures in terms of which national Parliaments will have to approve the outcomes of the negotiations before they will be ratified. The ratification of AfCFTA Protocols must be done in terms of Article 23 of the AfCFTA Agreement. The relevant part of this provision provides that

the Protocols on Investment, Intellectual Property Rights, Competition Policy and any other Instrument within the scope of this Agreement deemed necessary, shall enter into force thirty days after the deposit of the twenty second instrument of ratification.

It will take some time for all the required ratifications to be processed in terms of national constitutional requirements about the relationship between international agreements and the law of the land, and

entry into force of a new Protocol. The Protocol on Women and the Youth will then only bind those States that have ratified the new instrument and for whom it has entered into force.

tralac gratefully acknowledges the support of its Development Partners

